

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the Publication and Distribution  
of the  
Hawai'i Pattern Jury Instructions - Criminal

EM. RIMANDO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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FILED

ORDER APPROVING PUBLICATION AND DISTRIBUTION  
OF HAWAI'I PATTERN JURY INSTRUCTIONS - CRIMINAL  
(By: Moon, C.J., for the court<sup>1</sup>)

Upon consideration of the Pattern Criminal Jury Instructions Standing Committee's request to publish and distribute revisions and corrections to Criminal Instructions 13.56, 13.56A, 13.57, and 13.57A to the Hawai'i Pattern Jury Instructions - Criminal,

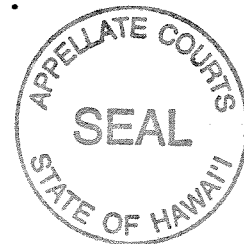
IT IS HEREBY ORDERED, that the attached criminal jury instructions 13.56, 13.56A, 13.57, and 13.57A are approved for publication and distribution.

IT IS FURTHER ORDERED that this approval for publication and distribution is not and shall not be considered by this court or any other court to be an approval or judgment as to the validity or correctness of the substance of any instruction.

DATED: Honolulu, Hawai'i, August 14, 2007.

FOR THE COURT:

  
Chief Justice



<sup>1</sup> Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

13.56 UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A  
CHILD PRESENT--UNDER AGE 16 AND PRESENT:  
H.R.S. § Section 712-1240.5(1)

If you find that the prosecution proved the Offense of (name of the manufacturing charge) [in Count \_\_\_\_\_] beyond a reasonable doubt, then you must answer the following three questions on a special interrogatory which will be provided to you:

1. Did the Prosecution prove beyond a reasonable doubt that at any time during the commission of the offense a child under the age of sixteen was present in the structure where the offense occurred?
2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?
3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure where the offense occurred was under the age of sixteen?

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

**Notes**

H.R.S. § 712-~~1249.5(1)~~1240.5(1).

For definitions of states of mind, see instruction:  
6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 712, see

instruction:  
13.00--"manufacture"

Proposed 7/31/07

**13.56 UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT--UNDER AGE 16 AND PRESENT:  
H.R.S. § Section 712-1240.5(1)**

If you find that the prosecution proved the Offense of (name of the manufacturing charge) [in Count \_\_\_\_\_] beyond a reasonable doubt, then you must answer the following three questions on a special interrogatory which will be provided to you:

1. Did the Prosecution prove beyond a reasonable doubt that at any time during the commission of the offense a child under the age of sixteen was present in the structure where the offense occurred?
2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?
3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure where the offense occurred was under the age of sixteen?

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

**Notes**

H.R.S. § 712-1240.5(1).

For definitions of states of mind, see instruction:  
6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 712, see

instruction:

13.00--"manufacture"

13.56A UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT--SPECIAL INTERROGATORY--UNDER AGE 16 AND PRESENT: H.R.S. § 712-1240.5(1)

1. Did the Prosecution prove beyond a reasonable doubt that at any time during the commission of the offense a child under the age of sixteen was present in the structure where the offense occurred?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure where the offense occurred was under the age of sixteen?

Yes \_\_\_\_\_ No \_\_\_\_\_

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

**Notes**

H.R.S. § 712-~~1249.5(1)~~1240.5(1).

Proposed 7/31/07

For definitions of states of mind, see instruction:  
6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 712,  
see instruction:  
13.00--"manufacture"

**13.56A UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT--SPECIAL INTERROGATORY--UNDER AGE 16 AND PRESENT: H.R.S. § 712-1240.5(1)**

1. Did the Prosecution prove beyond a reasonable doubt that at any time during the commission of the offense a child under the age of sixteen was present in the structure where the offense occurred?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure where the offense occurred was under the age of sixteen?

Yes \_\_\_\_\_ No \_\_\_\_\_

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

**Notes**

H.R.S. § 712-1240.5(1).

Proposed 7/31/07



For definitions of states of mind, see instruction:  
6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 712,  
see instruction:  
13.00--"manufacture"

13.57

**UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT--UNDER AGE 18 AND CAUSES SUBSTANTIAL OR SERIOUS BODILY INJURY:**

**H.R.S. § 712-1240.5(2)**

If you find that the prosecution proved the Offense of (name of the manufacturing charge) [in Count \_\_\_\_\_] beyond a reasonable doubt, then you must answer the following four questions on a special interrogatory which will be provided to you:

1. Did the Prosecution prove beyond a reasonable doubt that any time during the commission of the offense a child under the age of eighteen was present in the structure where the offense occurred?
2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?
3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure was under the age of eighteen?
4. Did the Prosecution prove beyond a reasonable doubt that the Defendant knowingly caused serious or substantial bodily injury to that child as a result of committing the offense of manufacturing a controlled substance?

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

Proposed 7/31/07

## Notes

H.R.S. § 712-~~1249.5(2)~~1240.5(2).

For definitions of states of mind, see instruction:  
6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 707,  
see instructions:

9.00--"serious bodily injury"

9.00--"substantial bodily injury"

For definition of terms defined by H.R.S. Chapter 712,  
see instruction:

13.00--"manufacture"

13.57           **UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT--UNDER AGE 18 AND CAUSES SUBSTANTIAL OR SERIOUS BODILY INJURY:**  
                  **H.R.S. § 712-1240.5(2)**

If you find that the prosecution proved the Offense of (name of the manufacturing charge) [in Count \_\_\_\_\_] beyond a reasonable doubt, then you must answer the following four questions on a special interrogatory which will be provided to you:

1. Did the Prosecution prove beyond a reasonable doubt that any time during the commission of the offense a child under the age of eighteen was present in the structure where the offense occurred?
2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?
3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure was under the age of eighteen?
4. Did the Prosecution prove beyond a reasonable doubt that the Defendant knowingly caused serious or substantial bodily injury to that child as a result of committing the offense of manufacturing a controlled substance?

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

**Notes**

H.R.S. § 712-1240.5(2).

For definitions of states of mind, see instruction:  
6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 707,  
see instructions:

9.00--"serious bodily injury"  
9.00--"substantial bodily injury"

For definition of terms defined by H.R.S. Chapter 712,  
see instruction:

13.00--"manufacture"

13.57A UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT-SPECIAL INTERROGATORY--UNDER AGE 18 AND CAUSES SUBSTANTIAL OR SERIOUS BODILY INJURY:  
H.R.S. § 712-1240.5(2)

1. Did the Prosecution prove beyond a reasonable doubt that any time during the commission of the offense a child under the age of eighteen was present in the structure where the offense occurred?

Yes \_\_\_\_\_

No \_\_\_\_\_

2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?

Yes \_\_\_\_\_

No \_\_\_\_\_

3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure was under the age of eighteen?

Yes \_\_\_\_\_

No \_\_\_\_\_

4. Did the Prosecution prove beyond a reasonable doubt that the Defendant knowingly caused serious or substantial bodily injury to that child as a result of committing the offense of manufacturing a controlled substance?

Yes \_\_\_\_\_

No \_\_\_\_\_

You must answer each of the questions separately. Your answer to each of these questions must be unanimous.

"Structure" means any house, apartment building, shop,

warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

#### Notes

H.R.S. § 712-~~1249.5(2)~~1240.5(2).

For definitions of states of mind, see instruction:  
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see instructions:

9.00--"serious bodily injury"  
9.00--"substantial bodily injury"

For definition of terms defined by H.R.S. Chapter 712,  
see instruction:

13.00--"manufacture"

**13.57A UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT-SPECIAL INTERROGATORY--UNDER AGE 18 AND CAUSES SUBSTANTIAL OR SERIOUS BODILY INJURY:  
H.R.S. § 712-1240.5(2)**

1. Did the Prosecution prove beyond a reasonable doubt that any time during the commission of the offense a child under the age of eighteen was present in the structure where the offense occurred?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure was under the age of eighteen?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Did the Prosecution prove beyond a reasonable doubt that the Defendant knowingly caused serious or substantial bodily injury to that child as a result of committing the offense of manufacturing a controlled substance?

Yes \_\_\_\_\_ No \_\_\_\_\_

You must answer each of the questions separately. Your answer to each of these questions must be unanimous.

"Structure" means any house, apartment building, shop,



warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

#### **Notes**

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For definitions of states of mind, see instruction:  
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9.00--"serious bodily injury"  
9.00--"substantial bodily injury"

For definition of terms defined by H.R.S. Chapter 712, see instruction:

13.00--"manufacture"